IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 20 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

COMMISSIONER OF WEALTH-TAX

Versus

TANSUKHLAL J VAKHARIA

Appearance:

1. WEALTH TAX REFERENCE No. 20 of 1994
MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 19/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1978-79 :-

"Whether, on the facts, in the circumstances of the case and in law, the Tribunal was correct and

justified in holding that the assessee is entitled to the exemption u/s. 5(1)(iv) of the Act on its shares in immovable property; even through the assessee HUF was not the owner of the residential immovable property and ownership of the property vested with the registered firm in which the assessee HUF was a partner ?"

2. We have heard Mrs Mauna Bhatt, learned standing counsel for the applicant-revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision of this Court in Commissioner of Wealth-tax vs. Maheshkumar R Patel, (1995) 216 ITR 272. In the said decision, this Court upheld the order of the Tribunal allowing the claim of the assessee for exclusion of the two assets, namely, the bank deposit and the house under Sections 5(1)(xxvi) and 5(1)(iv) respectively, for computing the value of the assessee's interest in the partnership-firm for the purpose of computing the net wealth of the assessee, taxable under the Act.

4. Following the aforesaid decision, our answer to the question referred by the Tribunal in this case also is in the affirmative i.e. in favour of the assessee and against the revenue.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.) (K.A. Puj, J.)
sundar/-